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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/521,842

07/14/2005

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EXAMINER

MAEWALL, SNIGDHA

ART UNIT

PAPER NUMBER

1612

MAIL DATE

DELIVERY MODE

06/18/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/521,842	Applicant(s) CHANDRA, LALITESH	
	Examiner Snigdha Maewall	Art Unit 1612	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 April 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) 13-16 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>03/21/05</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Summary

1. Receipt of IDS filed on 03/21/05 is acknowledged.

Election/Restriction

Applicant's election **without traverse** of group I, claims 1-12 in the reply filed on 04/09/09 is acknowledged.

In view of election of group I, claims 1-12 to be prosecuted, the species election is moot because claim 15 is not included in group I and hence will not be prosecuted on the merits.

Claims 13-16 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention there being no allowable generic or linking claim. Election was made **without traverse** in the reply filed on 04/09/09.

Claims **1-12** are under prosecution.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-12 are rejected under 35 U.S.C. 102(b) as being anticipated by Vermeer (USP 5,641,480).

Vermeer discloses hair care composition and hair conditioning agents see abstract. The reference teaches antidandruff agents as zinc pirithione, see column 32, lines 15-17. The amount of antidandruff agent is disclosed to be from 0% to 8%, see column, 41, lines 55-57.

Examples of conditioning emollient has been disclosed as basil oil and the oils can be from 0% to 10% by weight, see column 34, lines 35-36. Basil has been also known in the art as Tulsi. Various surfactants and amount are disclosed in columns 19-20. The composition can be in the form of conditioners, shampoos and antidandruff shampoo, see column 1, lines 44-46. Various cationic surfactants are disclosed in column 29, lines 5-40. Various thickening agents such as polyoxyethylene and polyoxypropylene are disclosed in column 31, lines 34-36.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a

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person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Vermeer (USP 5,641,480) in view of Solanki (US PG pub. 2003/0152585 A1).

The reference of Vermeer as discussed above does not specifically point out that Basil is also known as Ocimum Sanctum (botanical name) or Tulsi. Solanki while disclosing medicinal composition, establishes that basil is also referred to as Tulsi and Ocimum sanctum, see Table 1 on page 2. As such, preparation of hair care composition would have been obvious to one of ordinary skill in the art at the time of instant invention with metal pyrithione and basil or Tulsi oil in view of the teachings of Vermeer and Solanki.

6. Claims 1-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Vermeer (USP 5,641,480) in view of Doshi et al. (US PG pub. 2003/0228383 a1) and further in view of Solanki (US PG pub. 2003/0152585 A1).

The teachings of Vermeer and Solanki have been cited above. Vermeer while teaching basil as emollient does not characterize basil with antimicrobial property.

Doshi discloses an herbal composition comprising ocimum sanctum which exerts antimicrobial activity against bacteria and fungus, see paragraph [0019]. Doshi also calls Tulsi as ocimum sanctum as botanical name (Example 1 on page 5). Doshi discloses that pharmaceutical composition does not contain any hazardous organic solvents, see paragraph [0062].

Solanki while disclosing medicinal composition, establishes that basil is also referred to as Tulsi and *Ocimum sanctum*, see Table 1 on page 2.

It would have been obvious to one of ordinary skill in the art at the time of instant invention to utilize the antimicrobial property of (Tulsi/basil/*Ocimum sanctum*) in the antimicrobial preparation of Vermeer et al. motivated by the teachings of Doshi and Solanki.

As such, preparation of hair care composition would have been obvious to one of ordinary skill in the art at the time of instant invention with metal pyrithione and basil or Tulsi oil in view of the teachings of Vermeer, Doshi and Solanki.

CITED AS INTEREST

*Note: Instant specification in paragraph [0014] states that Tulsi oil is obtained from the Holy Basil plant, *Ocimum sanctum* and is **known** to have beneficial antimicrobial and/or insecticidal properties. Tulsi oil is typically extracted from the leaves of the plant.*

USP 6503517, 6306412, 6270783 and 6197306 have been cited as interest for cosmetic composition comprising tulsi oil with application in hair treatment.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Snigdha Maewall whose telephone number is (571)-272-6197. The examiner can normally be reached on Monday to Friday; 8:30 a.m. to 5:00 p.m. EST.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Frederick Krass can be reached on (571) 272-0580. The fax phone number for the organization where this application or proceeding is assigned is 571-273-0580.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status

information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Snigdha Maewall/

Examiner, Art Unit 1612

/Gollamudi S Kishore/

Primary Examiner, Art Unit 1612